113 more ground than ours, since it even includes a discussion of the Mbole.

H. Brepoels, "Het Familiehoofd bij de Nkundó-Negers," Congo, 1930, Vol. 2, p. 332.

124 We have tried to make our data as complete as possible. We have given here not only the major trends and basic principles, but also the particulars, even those that seem most insignificant. They are always interesting, and sometimes more so than one may have suspected at first. All the material has been discussed over and over again, in private and in public, with very varied people at different times and places, and the points that presented the greatest difficulty were gone over countless times.

121 In general we have preferred to use the descriptive and analytic method. We have drawn conclusions and principles from the data. Although case histories naturally lengthened the text of this work, we have not hesitated to insert them at various points. They are the best means of bringing out certain rules or customs and bringing to life the psychology of our people.

121 In this respect a remark should be made whose importance
● 69 deserves our attention for a moment. The examination of judicial cases of which we have been direct or indirect witnesses does not provide a scientific certainty about the laws -- or "the customs," to use the term so frequently applied (1). For not all [16] that is done

1. It is unfortunate that this term has become so fashionable, for it lacks precision. Indeed, it may mean simply "practice, usage," or it may be used in the legal sense of "a practice having the force of a law." Often a confusion between the two meanings is created, and all customs are considered to be legally obligatory, when actually, some practices are outside common law, and others are in opposition to it. For the sake of precision in ethnographic and ethnological works, it would be well to use this ambiguous term as little as possible and to distinguish clearly among legal procedures, the laws and custom or usage.

[2] is in accordance with justice. The observation that the natives be-
●69 have in one fashion or another, and that this or that palaver is often settled in a particular way, is not a sufficient basis for concluding that such is the law.

Infractions of the rules of social justice are more frequent than one would suspect. The principles are good, but often passions prevent their application, and frequently there are neither sanctions to support a weakness of will nor rewards to stimulate loyal adherence.

[2] Furthermore, one should not invoke the variability and con-
[1] tinuous transformation of native law (as does Dr. T. Seitz, for ex-
69 ample, in Africa, Vol. 3, No. 1, p. 89) without first establishing whether the judgments rendered have been in conformity with the law. The remark made by this eminent author further on in his article, "Welche Rolle dabei das Machtmoment," etc. ... weakens his first statement and shows precisely that an accurate knowledge of legal prescriptions cannot be attained solely on the basis of the verdicts of tribunals, and that partiality often plays a considerable part. The observation made by the former governor of the Cameroons may be applied to the Belgian Congo and often to "civilized" countries as well -- partiality and the abuse of power are nowhere unknown.

[2] We must also take into account the possibility of the judges'
[1] ignorance, as well as our own difficulty in understanding their sentences,
69 since important points of fact and law are sometimes left unmentioned, and yet are implied.

It is not surprising that there are complicated cases where it is very difficult for the natives, however intelligent and impartial, to settle the dispute and provide a fair and legitimate solution. The law cannot foresee for every case the infinite variety of personal, local, and modal circumstances that may occur.

Only the analysis and comparison of diverse cases, [17] their solutions, sanctions, and consequences, together with discussions with discreet and impartial natives who are knowing and skillful and who have learned to know us and to understand what we want to learn from them, and who are sincerely disposed to help us at the same time, can produce a rational and reasoned certainty which conforms to reality. These conditions are numerous, and it is difficult to find them

121 all fulfilled in one person. But such individuals do exist, if in the
69 person of the investigator they find sympathy, broad ideas, a lack of all European racism, understanding, a knowledge of their language, and a benevolent devotion to their interests, individually and as a group.

Even if one has the good fortune to find a native who, after
121 much experience, reaches the point where he will say spontaneously:
124 "This is done often, but it is against the law; the law says thus and so; this decision of the tribunal was partial for such or such reason," -- an infinitely valuable situation, but one which arises very rarely -- one is not thereby absolved of the need to check his statements. But the further one goes, the more it is possible to be aware of the reality and to appraise the informant's value in this sphere and the usefulness of his statements.

These considerations are particularly valuable in making the
121 distinction between obligations and social decorum or good manners,
183 between legal obligations and obligations of kinship and mutual
671 assistance. In current practice the Nkundó make no clear lines of demarcation between these categories, since they have never codified their law or attempted to set up a clear and precise classification. They feel no more need for this than, for instance, they or even we "civilized" people bother about setting up a grammar for our native tongue, which we speak correctly and without the slightest difficulty, purely out of habit.

An investigation in the legal domain is made [18] very diffi-
[124] cult by the patriarchal and feudal character of these peoples, added to the lack of writing. Not only is there an adaptation to circumstances -- the felicitous flexibility of native laws -- in which jurisprudence plays a great role, but the Nkundó, while knowing well what is lawful and what is not, generally does not clearly understand the nature of an obligation, and above all he does not know its source.

One's chances of obtaining good results in the inquiry are
121 greatly increased by the use of hypothetical cases, presented to the
124 individuals one knows best and whom one knows to be in no way involved. It is always worthwhile to use this method as a means of completing and perhaps correcting conclusions based on the examination